CAPITAL AUTOMOTIVE REIT
Form S-3/A
August 23, 2005

AS FILED WITH THE SECURITIES AND EXCHANGE COMMISSION ON AUGUST 23, 2005
Registration No. 333-126814

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

Amendment No. 1
to
FORM S-3
REGISTRATION STATEMENT
UNDER THE SECURITIES ACT OF 1933

CAPITAL AUTOMOTIVE REIT
(Exact name of registrant as specified in its charter)

Maryland	**6798**	**54-1870224**
(State or other jurisdiction of organization)	(Primary Standard Industrial Classification Code Number)	(I.R.S. Employer Identification Number)

8270 Greensboro Drive, Suite 950 **McLean, Virginia 22102** **(703) 288-3075**	**Thomas D. Eckert** **President and Chief Executive Officer** **Capital Automotive REIT** **8270 Greensboro Drive, Suite 950** **McLean, Virginia 22102** **(703) 288-3075**
(Address, including zip code, and telephone number, including area code, of registrant s principal executive offices)	(Name, address, including zip code, and telephone number, including area code, of agent for service)

With a copy to:
Sylvia M. Mahaffey
Pillsbury Winthrop Shaw Pittman LLP
2300 N Street, N.W.
Washington, D.C. 20037
(202) 663-8000

Approximate date the registrant proposes to begin selling securities to the public: From time to time after the effective date of this registration statement.

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box. ¨

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered in connection with dividend or interest reinvestment plans, check the following box. þ

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ¨

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement

for the same offering. ¨

If delivery of the prospectus is expected to be made pursuant to Rule 434, please check the following box. ¨

CALCULATION OF REGISTRATION FEE

Title of Securities to be Registered	Amount to be Registered	Proposed Maximum Offering Price Per Share(1)	Proposed Maximum Aggregate Offering Price(1)	Amount of Registration Fee(1)
Common Shares of Beneficial Interest, par value $.01 per share	351,525	$38.76	$13,625,109	$1,604

(1) Estimated solely for purposes of calculating the registration fee pursuant to Rule 457(c) on the basis of the average of the high and low reported sales prices for the registrant s common shares of beneficial interest, as reported on The Nasdaq National Market on July 18, 2005.

This registration statement relates to the possible offering and sale of up to 351,525 common shares of Capital Automotive REIT upon the redemption of certain units of limited partnership interest in Capital Automotive L.P. that were issued in transactions that closed on June 30, 2004. All 351,525 units became redeemable on July 31, 2005.

The registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant files a further amendment which specifically states that this registration statement is to become effective in accordance with Section 8(a) of the Securities Act or until the registration statement becomes effective on the date the SEC, acting under Section 8(a), determines.

The information in this prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.

Subject To Completion, Dated August 23, 2005

PROSPECTUS

CAPITAL AUTOMOTIVE REIT

351,525 Common Shares of Beneficial Interest

We may offer up to 351,525 common shares for redemption of units of limited partnership interest issued by Capital Automotive L.P. Capital Automotive L.P. issued 351,525 units in connection with the acquisitions of real estate property that closed June 30, 2004. All 351,525 units became redeemable July 31, 2005, as more fully described in our prospectus. The holders of the units have the right to notify Capital Automotive L.P. that they want their units redeemed. We have the right to assume the obligations of Capital Automotive L.P. to redeem units. If the unitholders exercise their right to have their units redeemed, we may issue common shares in exchange for those units on the basis of one common share for each unit redeemed. Our registration of our common shares does not mean that we will offer or sell our common shares to the unitholders, if and when the unitholders redeem units. We may choose not to assume the obligations of Capital Automotive L.P. or we may choose to pay cash in exchange for the units. We will not receive any money from the offer and sale of our common shares to the unitholders.

We are also registering the resale of our common shares by the recipients. Our registration of our common shares for possible resale does not mean that the persons who receive common shares from us for their units will offer and sell their shares. We will not receive any money from any offer and sale of common shares by the selling shareholders. See Use of Proceeds, Selling Shareholders and Plan of Distribution.

Our common shares are quoted on the Nasdaq National Market under the symbol CARS. On August 22, 2005, the closing sales price of our common shares as reported on the Nasdaq National Market was 35.75 per share.

To maintain our qualification as a real estate investment trust, we limit the transfer of our common shares. No person may own more than 9.9% of our outstanding shares or 9.9% of our outstanding shares of preferred stock, as determined under the attribution rules of the Internal Revenue Code, subject to exceptions under the law and our right, subject to certain limitations, to grant waivers of these limits.

You should be aware that an investment in our common shares involves various risks. See Risk Factors on Page 2 and in our Current Report on Form 8-K/A filed on March 11, 2005, which is incorporated into our prospectus by reference.

The holders of units should also realize that the redemption of a unit will be treated as a taxable sale of the unit. As such, each holder will recognize gain or loss from the sale of the unit equal to the difference between the amount considered realized for tax purposes and the holder s adjusted tax basis in the unit.

NEITHER THE SECURITIES AND EXCHANGE COMMISSION NOR ANY STATE SECURITIES COMMISSION HAS APPROVED OR DISAPPROVED OF THESE SECURITIES OR DETERMINED IF THIS PROSPECTUS IS TRUTHFUL OR COMPLETE. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

The date of this prospectus is .

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ABOUT THIS PROSPECTUS

This prospectus is part of a registration statement that we filed with the Securities and Exchange Commission using a shelf registration process. Under this shelf process, we may offer and sell common shares described in our prospectus on redemption of units of limited partnership interest of Capital Automotive L.P., which we refer to as the Partnership, in one or more offerings to persons who acquired their units on June 30, 2004. The persons who receive common shares from us may also resell those shares. Our prospectus provides you with a general description of our common shares. If required, we will deliver or provide our prospectus supplement if and when we offer and sell any common shares, or when the selling shareholders offer and resell any common shares that will contain specific information about all of the terms of that offering. Our prospectus supplement may also add, update or change information contained in this prospectus. You should read both our prospectus and any prospectus supplement together with the additional information described under the heading Where You Can Find More Information.

References to we, us or our refer to Capital Automotive REIT or, if the context requires, the Partnership and our business and operations conducted through the Partnership and/or directly or indirectly owned subsidiaries. The term you refers to a prospective investor. We are the sole general partner of the Partnership and, as of June 30, 2005, owned approximately 85.3% of the common units of partnership interest in the Partnership, which we refer to as units. Units of the Partnership held by limited partners (other than us) are redeemable, at the option of the holder, for cash, or we may assume the redemption obligations of the Partnership and acquire the units in exchange for our common shares on a one-for-one basis.

In this prospectus, we use the term dealerships to refer to franchised automobile dealerships and motor vehicle service, repair or parts businesses, used vehicle businesses and other related businesses, which are the types of businesses that are operated on our properties. We also use the term dealer group, tenant, or operators of dealerships to refer to the related persons and entities that lease our properties from us or mortgage their properties with us.

RISK FACTORS

Our prospectus, including our documents incorporated herein by reference, contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended and Section 21E of the Securities Exchange Act of 1934, as amended. Also, documents that we subsequently file with the SEC and are incorporated herein by reference will contain forward-looking statements. When we refer to forward-looking statements or information, sometimes we use words such as may, will, could, should, plans, intends, expects, believes, anticipates and continues. In particular, the risk factors included or incorporated by reference in our prospectus describe forward-looking information. The risk factors are not all inclusive, particularly with respect to possible future events. Other parts of, or documents incorporated by reference into, our prospectus may also describe forward-looking information. Many things can happen that can cause our actual results to be very different than those described. These factors include, but are not limited to:

- risks that our tenants will not pay rent;
- risks related to the mortgage loans in our portfolio, such as the risk that our borrowers will not pay the principal or interest or otherwise defaults, the level of interest income generated by the mortgage loans, the market value of the mortgage loans and of the properties securing the loans, and provisions of federal, state and local law that may delay or limit our ability to enforce our rights against a borrower or guarantor in the event of a default under a loan;
- risks related to our reliance on a small number of dealer groups for a significant portion of our revenue;
- risks of financing, such as increases in interest rates and our ability to meet existing financial covenants, to maintain our investment-grade senior unsecured debt ratings and to consummate planned and additional financings on terms that are acceptable to us;
- risks that our growth will be limited if we cannot obtain additional capital or refinance our maturing debt;
- risks that planned and additional real estate investments may not be consummated;
- risks that competition for future real estate investments could result in less favorable terms for the Company;
- risks relating to the automotive industry, such as the ability of our tenants to compete effectively in the automotive retail industry or operate profitably and the ability of our tenants to perform their lease obligations as a result of changes in any manufacturer s production, supply, vehicle financing, incentives, warranty programs, marketing or other practices, or changes in the economy generally;
- risks generally incident to the ownership of real property, including adverse changes in economic conditions, changes in the investment climate for real estate, changes in real estate taxes and other operating expenses, adverse changes in governmental rules and fiscal policies and the relative illiquidity of real estate;
- risks related to our financing of new construction and improvements;
- environmental and other risks associated with the acquisition and leasing of automotive properties; and
- risks related to our status as a REIT for federal income tax purposes, such as the existence of complex regulations relating to our status as a REIT, the effect of future changes in REIT requirements as a result of new legislation and the adverse consequences of the failure to qualify as a REIT.

Given these uncertainties, readers are cautioned not to place undue reliance on these forward-looking

statements or those incorporated into this prospectus from our Current Report on Form 8-K/A filed on March 11, 2005. We also make no promise to update any of the forward-looking statements, or to publicly release the results if we revise any of them. You should carefully review the risks and the risk factors incorporated by reference into this prospectus, as well as the other information in this prospectus or referred to in this prospectus, before buying our common shares.

CAPITAL AUTOMOTIVE REIT

We are a self-administered and self-managed real estate company operating as a real estate investment trust, or a REIT, for federal income tax purposes. Our primary business strategy is to purchase real estate (land, buildings and other improvements), or leasehold interests therein which we simultaneously lease to operators of franchised automobile dealerships and motor vehicle service, repair or parts businesses, used vehicle businesses and other related businesses under long-term, triple-net leases. In addition, we provide mortgages, fund facility improvements, construction financing and takeout commitments in certain circumstances. Triple-net leases typically require the tenant to pay all operating expenses of a property, including, but not limited to, all real estate taxes, assessments and other government charges, insurance, utilities, repairs and maintenance. We focus on leasing properties or providing mortgages to dealer groups that have a long history of operating multi-site, multi-franchised dealerships, generally targeting the largest dealer groups in terms of revenues in the largest metropolitan areas in the U.S. in terms of population. The objective of our strategy is to provide long-term, predictable, stable cash flow for our shareholders.

As of June 30, 2005, we had real estate investments of nearly $2.5 billion, primarily consisting of interests in 345 properties located in 32 states, including approximately 2,687 acres of land and containing approximately 15.1 million square feet of buildings and improvements. Our tenants operate 509 motor vehicle franchises on our properties, representing 44 brands of motor vehicles, which include all of the top selling brands in the U.S.

Our principal executive offices are located at 8270 Greensboro Drive, Suite 950, McLean, Virginia 22102 and our telephone number is (703) 288-3075. Our website address is www.capitalautomotive.com. The information contained in our website is not a part of this prospectus. We make available free of charge on our website our annual report on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, and amendments to those reports as soon as reasonably practicable after they have been field with or furnished to the SEC electronically.

USE OF PROCEEDS

We will not receive any proceeds from common shares offered and sold on redemption of units. We will not receive any proceeds from common shares sold by the selling shareholders.

MARKET PRICE OF COMMON SHARES

Our common shares have traded on the Nasdaq National Market under the symbol CARS since February 13, 1998. Listed below are the high and low sales prices of our common shares as reported on the Nasdaq National Market and the distributions declared for each of the periods indicated.

	Price Per Share		Distributions Declared Per Share
	High	**Low**	
2005			
Third quarter (to August 22, 2005)	$ 40.420	$ 35.090	$
Second quarter	38.820	32.050	0.4460
First quarter	35.650	31.790	0.4380
2004			
Fourth quarter	$ 35.530	$ 30.670	$ 0.4305
Third quarter	32.000	27.760	0.4265
Second quarter	35.700	25.120	0.4230
First quarter	36.220	31.630	0.4200
2003			
Fourth quarter	$ 33.000	$ 30.160	$ 0.4165
Third quarter	30.8700	27.430	0.4140
Second quarter	28.960	24.950	0.4110
First quarter	25.350	22.500	0.4085

DESCRIPTION OF COMMON SHARES OF BENEFICIAL INTEREST

We are a Maryland real estate investment trust. Your rights as a common shareholder are governed by the Code of Maryland, including Title 8 of the Corporations and Associations Article, our declaration of trust and our bylaws. The following summary of the material terms, rights and preferences of the common shares of beneficial interest is not complete. You should read our declaration of trust and bylaws for more complete information.

Authorized Shares

Our declaration of trust allows us to issue up to 100,000,000 common shares of beneficial interest, par value $.01 per share, and 20,000,000 preferred shares of beneficial interest, par value $.01 per share. As of June 30, 2005, we had 46,173,833 common shares outstanding and 6,550,000 preferred shares outstanding, of which 3,950,000 were designated as 7 1/2 % Series A Cumulative Redeemable Preferred Shares and 2,600,000 were designated as 8% Series B Cumulative Redeemable Preferred Shares.

Authority of the Board of Trustees Relating to Authorization and Classification of Shares. Our declaration of trust allows our Board of Trustees to take the following actions without approval by you or any shareholder:

- classify or reclassify any authorized but unissued common shares or preferred shares into one or more classes or series of shares of beneficial interest;
- amend the declaration of trust to change the total number of shares of beneficial interest authorized; or
- amend the declaration of trust to change the authorized number of shares of any class or series of shares of beneficial interest.

If there are any laws or stock exchange rules which require us to obtain shareholder approval in order for us to take these actions, however, we will contact you and other shareholders to solicit that approval.

We believe that the power of the Board of Trustees to issue additional shares of beneficial interest will provide us with greater flexibility in structuring possible future financings and acquisitions and in meeting other future needs. Although the Board of Trustees does not currently intend to do so, it has the ability to issue a class or series of beneficial shares that could have the effect of delaying or preventing a change of our control that might involve a premium price for holders of our common shares or otherwise be favorable to them.

Shareholder Liability

Under Maryland law, you will not be personally liable for any obligation of ours solely because you are a shareholder. Under our declaration of trust, our shareholders are not liable for our debts or obligations by reason of being a shareholder and will not be subject to any personal liability, in tort, contract or otherwise, to any person in connection with our property or affairs by reason of being a shareholder.

Notwithstanding these limitations, common law theories of piercing the corporate veil may be used to impose liability on shareholders in certain instances. Also, to the extent, that we conduct operations in another jurisdiction where the law of that jurisdiction

- does not recognize the limitations of liability afforded by contract, Maryland law and our declaration of trust; and

does not provide similar limitations of liability applicable to real estate investment trusts or other trusts, a third party could attempt, under limited circumstances, to assert a claim against our shareholders based on our obligations.

Common Shares

All common shares offered through this prospectus will be duly authorized, fully paid and nonassessable. As a shareholder, you will be entitled to receive distributions, or dividends, on the shares you own if the Board of Trustees authorizes a dividend out of our legally available assets. Your right to receive those dividends may be affected, however, by the preferential rights of any other class or series of shares of beneficial interest and the provisions of our declaration of trust regarding restrictions on the transfer of shares of beneficial interest. For example, you may not receive dividends if no funds are available for distribution after we pay dividends to holders of preferred shares. You will also be entitled to receive dividends based on our assets available for distribution to common shareholders if we liquidate, dissolve or wind-up our operations. The amount you, as a shareholder, would receive in the distribution would be determined by the amount of your beneficial ownership of us in comparison with other beneficial owners. Assets will be available for distribution to shareholders only after we have paid all of our known debts and liabilities and paid the holders of any preferred shares we may issue which are outstanding at that time.

Voting Rights. Each outstanding common share owned by a shareholder entitles that holder to one vote on all matters submitted to a vote of common shareholders, including the election of trustees. The right to vote is subject to the provisions of our declaration of trust regarding the restriction of the transfer of shares of beneficial interest, which we describe under Restrictions on Ownership and Transfer, below. There is no cumulative voting in the election of trustees, which means that, under Maryland law and our declaration of trust, the holders of a plurality of the outstanding common shares can elect all of the trustees then standing for election, and the holders of the remaining shares will not be able to elect any trustees.

As a holder of a common share, you will not have any right to:

convert your shares into any other security;

have any funds set aside for future payments;

require us to repurchase your shares; or

purchase any of our securities, if other securities are offered for sale, other than as a member of the general public.

Subject to the terms of our declaration of trust regarding the restrictions on transfer of shares of beneficial interest, each common share has the same dividend, distribution, liquidation and other rights as each other common share.

According to the terms of our declaration of trust and bylaws, and Maryland law, all matters submitted to the shareholders for approval, except for those matters listed below, are approved if a majority of all the votes cast at a meeting of shareholders duly called and at which a quorum is present are voted in favor of approval. The following matters require approval other than by a majority of all votes cast:

our intentional disqualification as a real estate investment trust or revocation of our election to be taxed as a real estate investment trust (which requires the affirmative vote of the holders of two-thirds of the number of common shares outstanding and entitled to vote on such a matter),

the election of trustees (which requires a plurality of all the votes cast at a meeting of our shareholders at which a quorum is present),

the removal of trustees (which requires the affirmative vote of the holders of two-thirds of the number of common shares outstanding and entitled to vote on such a matter),

the amendment of our declaration of trust by shareholders (which requires the affirmative vote of a majority of votes entitled to be cast on the matter, except under certain circumstances specified in our declaration of trust that require the affirmative vote of two-thirds of all the votes entitled to be cast on the matter),

our dissolution (which requires the affirmative vote of two-thirds of all the votes entitled to be cast on the matter), and

our merger or consolidation with another entity or sale of all or substantially all of our property or assets (which requires the approval of the Board of Trustees and an affirmative vote of a majority of all the votes entitled to be cast on the matter).

Our declaration of trust permits the trustees by a two-thirds vote to amend the declaration of trust from time to time to qualify as a real estate investment trust under Maryland law without the approval of you or other shareholders. Our declaration of trust permits the Board of Trustees to amend the declaration of trust to increase or decrease the total number of shares of beneficial interest or the number of shares of any class of shares of beneficial interest that we have authority to issue without approval by you or other shareholders.

Preemptive Rights. Under our declaration of trust, no holder of shares of beneficial interest has any preemptive right to subscribe for any issuance of additional shares, other than as the Board of Trustees may provide in its sole discretion.

Stock Exchange Listing. Our common shares are traded on the Nasdaq National Market under the trading symbol CARS.

Transfer Agent and Registrar. The transfer agent and registrar for our common shares is American Stock Transfer & Trust Company, New York, New York.

Registration Rights Agreements

Under the Partnership s partnership agreement, we have agreed to file one or more registration statements that covers the resale of common shares upon exchange of units of the Partnership that were issued in private placements at the time of and since our formation. In addition, prior to our filing of a registration statement with respect to a firm commitment underwritten public offering of our shares, we are obligated to notify each holder of common shares that were issued upon exchange of units of the Partnership and, subject to limitations, to allow the holder to include such common shares in the offering.

We must use our best efforts to maintain the effectiveness of these registration statements. The exchange of outstanding securities for common shares will increase the number of outstanding common shares and will increase our percentage ownership interest in the Partnership.

CERTAIN PROVISIONS OF MARYLAND LAW AND OUR DECLARATION OF TRUST AND BYLAWS

The following summary of certain provisions of the Maryland General Corporation Law and our declaration of trust and bylaws is not complete. You should read the Maryland General Corporation Law and our declaration of trust and bylaws for more complete information. The business combination provisions and the control share acquisition provisions of Maryland law, both of which are discussed below, could have the effect of delaying or preventing a change in our control. Also, the removal of trustees provisions of the declaration of trust and the advance notice provisions of the bylaws could have the effect of delaying or preventing a transaction or a change in

our control. These provisions could have the effect of discouraging offers to acquire us and of increasing the difficulty of consummating any such offer, even if the offer contains a premium price for holders of common shares or otherwise benefits shareholders.

Restrictions on Ownership and Transfer

General. Restrictions on ownership and transfer of shares are important to ensure that we meet certain conditions under the Code to qualify as a REIT. For example, the Code contains the following requirements.

No more than 50% in value of a REIT s shares may be owned, actually or constructively (based on attribution rules in the Code), by five or fewer individuals during the last half of a taxable year or a proportionate part of a shorter taxable year, which we refer to as the 5/50 Rule. Under the Code, individuals include certain tax-exempt entities, except that qualified domestic pension funds are not generally treated as individuals.

If a REIT, or an owner of 10% or more of a REIT, is treated as owning 10% or more of a tenant of the REIT s property, the rent received by the REIT from the tenant will not be qualifying income for purposes of the REIT gross income tests of the Code.

A REIT s stock or beneficial interests must be owned by 100 or more persons during at least 335 days of a taxable year of 12 months or during a proportionate part of a shorter taxable year.

In order to maintain our qualification as a REIT, our declaration of trust, subject to certain exceptions described below, provides that no person may own, or be deemed to own by virtue of the attribution provisions of the Code, more than 9.9% of the outstanding common shares, any class or series of preferred shares or any other class or series of capital stock. In this prospectus, the term ownership limitation is used to describe this provision of our declaration of trust.

Any transfer of shares will be null and void, and the intended transferee will acquire no rights in such shares if the transfer:

results in any person owning, directly or indirectly, shares in excess of the ownership limitation;

results in the shares being owned by fewer than 100 persons (determined without reference to any rules of attribution);

results in our being closely held (within the meaning of Section 856(h) of the Code);

causes us to own, directly or constructively, 10% or more of the ownership interests in a tenant of our real property (within the meaning of Section 856 (d) (2)(B) of the Code); or

otherwise results in our failure to qualify as a REIT.

Automatic Transfer of Shares to Trust. With certain exceptions described below, if any purported transfer of shares would violate any of the restrictions described in the immediately preceding paragraph, then the transfer will be null and void, and those shares will be designated as shares-in-trust and transferred automatically to a charitable trust. The transfer to the trust is effective as of the end of the business day before the purported transfer of such shares. The record holder of the shares that are designated as shares-in-trust must deliver those shares to us for registration in the name of the trust. We will designate a trustee who is not affiliated with us. The beneficiary of the trust will be one or more charitable organizations named by us.

Any shares-in-trust remain issued and outstanding shares and are entitled to the same rights and privileges as all other shares of the same class or series. The trust receives all dividends and distributions on the shares-in-trust and holds such dividends and distributions in trust for the benefit of the beneficiary. The trustee votes all shares-in-trust. The trustee shall also designate a permitted transferee of the shares-in-trust. The permitted transferee must

purchase the shares-in-trust for valuable consideration and acquire the shares-in-trust without resulting in the transfer being null and void.

The record holder with respect to shares-in-trust must pay the trust any dividends or distributions received by such record holder (1) that are attributable to any shares-in-trust and (2) if the record date for those shares-in-trust was on or after the date that such shares became shares-in-trust. Upon sale or other disposition of the shares-in-trust to a permitted transferee, the record holder generally will receive from the trustee, the lesser of:

the price per share, if any, paid by the record holder for the shares, or

if no amount was paid for such shares (e.g., if such shares were received through a gift or devise), the price per share equal to the market price (which is calculated as defined in our declaration of trust) on the date the shares were received, or

the price per share received by the trustee from the sale of such shares-in-trust.

Any amounts received by the trustee in excess of the amounts paid to the record owner will be distributed to the beneficiary. Unless sooner sold to a permitted transferee, upon our liquidation, dissolution or winding up, the record owner generally will receive from the trustee its share of the liquidation proceeds but in no case more than the price per share paid by the record owner or, in the case of a gift or devise, the market price per share on the date such shares were received by the trust.

The shares-in-trust will be offered for sale to us, or our designee, at a price per share equal to the lesser of (1) the price per share in the transaction that created the shares-in-trust (or, in the case of a gift or devise, the market price per share on the date of such transfer) or (2) the market price per share on the date that we, or our designee, accepts such offer. We may accept such offer for a period of 90 days after the later of (1) the date of the purported transfer which resulted in such shares-in-trust or (2) the date we determine in good faith that a transfer resulting in such shares-in-trust occurred.

Any person who acquires or attempts to acquire common shares or preferred shares which would be null and void under the restrictions described above, or any person who owned common shares or preferred shares that were transferred to a trust, must (1) give us immediate written notice of such event and (2) provide us such other information as requested in order to determine the effect, if any, of such transfer on our status as a REIT.

If a shareholder owns more than 5% of the outstanding common shares or preferred shares, then the shareholder must notify us of its share ownership by January 30 of each year.

The ownership limitation generally does not apply to the acquisition of shares by an underwriter that participates in a public offering of such shares. In addition, the Board of Trustees may exempt a person from the ownership limitation under certain circumstances and conditions. The Board may not grant an exemption from the ownership limitation to any proposed transferee whose ownership, direct or indirect, of our shares of beneficial interest in excess of the ownership limitation would result in the termination of our status as a REIT. The restrictions described above will continue to apply until (1) the Board of Trustees determines that it is no longer in our best interests to attempt to qualify, or to continue to qualify, as a REIT, and (2) there is an affirmative vote of two-thirds of the votes entitled to be cast on such matter at a regular or special meeting of our shareholders.

The ownership limitation could have the effect of delaying, deferring or preventing a transaction or a change in our control that might involve a premium price for the common shares or preferred shares or otherwise be in the best interest of our shareholders. All certificates representing shares will bear a legend referring to the restrictions described above.

Business Combinations

Maryland General Corporation Law prohibits us from entering into business combinations and other

corporate transactions unless special actions are taken. The business combinations that require these special actions include a merger, consolidation, share exchange, or, in certain circumstances, an asset transfer or issuance of equity securities when the combination is between us and an interested shareholder (as defined below). An interested shareholder is:

any person who beneficially owns 10% or more of the voting power of our shares; or

any of our affiliates which beneficially owned 10% or more of the voting power of our shares within two years prior to the date in question.

We may not engage in a business combination with an interested shareholder or any of its affiliates for five years after the interested shareholder becomes an interested shareholder. This prohibition does not apply to business combinations involving us that are exempted by the Board of Trustees before the interested shareholder becomes an interested shareholder.

We may engage in business combinations with an interested shareholder if at least five years have passed since the person became an interested shareholder, but only if the transaction is:

recommended by our Board of Trustees; and

approved by at least

80% of our outstanding shares entitled to vote; and

two-thirds of our outstanding shares entitled to vote that are not held by the interested shareholder.

Shareholder approval will not be required if our common shareholders receive a minimum price (as defined in the statute) for their shares and our shareholders receive cash or the same form of consideration as the interested shareholder paid for its shares.

Control Share Acquisitions

Our declaration of trust exempts acquisitions of our shares of beneficial interest by any person from control share acquisition requirements discussed below. There is no assurance that such exemption will not be amended or eliminated in the future. If the exemption was eliminated, control share acquisitions would be subject to the following provisions.

The Maryland General Corporation Law provides that control shares of a Maryland real estate investment trust acquired in a control share acquisition have no voting rights unless two-thirds of the shareholders (excluding shares owned by the acquirer, and by the officers and trustees who are employees of the Maryland real estate investment trust) approve their voting rights.

Control Shares are shares that, if added with all other shares previously acquired, would entitle that person to vote, in electing the trustees:

10% or more but less than one-third of such shares;

one-third or more but less than a majority of such shares; or

a majority of the outstanding shares.

Control shares do not include shares the acquiring person is entitled to vote with shareholder approval. A control share acquisition means the acquisition of control shares, subject to certain exceptions.

If this provision becomes applicable to us, a person who has made or proposes to make a control share acquisition could, under certain circumstances, compel our Board of Trustees to call a special meeting of shareholders to consider the voting rights of the control shares. We could also present the question at any shareholders meeting on our own.

If this provision becomes applicable to us, subject to certain conditions and limitations, we would be able to redeem any or all control shares. If voting rights for control shares were approved at a shareholders meeting and the acquirer were entitled to vote a majority of the shares entitled to vote, all other shareholders could exercise appraisal rights and exchange their shares for a fair value as defined by statute.

Limitation of Liability of Trustees and Officers

Our declaration of trust provides that, to the fullest extent that limitations on the liability of trustees and officers are permitted by the Maryland General Corporation Law, no trustee or officer shall be liable to us or our shareholders for money damages. The Maryland General Corporation Law provides that we may restrict or limit the liability of trustees or officers for money damages except

to the extent anyone actually received an improper benefit or profit in money property or services; or

a judgment or other final adjudication adverse to the person is entered in a proceeding based on a finding that the person s action was material to the cause of action adjudicated and the action or failure to act was the result of bad faith or active and deliberate dishonesty.

Indemnification of Trustees and Officers

Our declaration of trust and bylaws permit us to indemnify any of its employees or agents. The bylaws require us to indemnify each trustee or officer who has been successful in defending any proceeding to which he or she is made a party by reason of his or her service to us. We have also entered into separate indemnification agreements with certain of our trustees and certain of our executive officers. The agreements require that we indemnify our trustees and officers to the fullest extent permitted by Maryland General Corporation Law. The agreements also require us to indemnify and advance all expenses incurred by trustees and officers seeking to enforce their indemnification agreements. We must also cover trustees and officers under our trustees and officers liability insurance. Although the form indemnification agreement offers substantially the same scope of coverage as our declaration of trust and bylaws, the agreements provide greater assurance to the trustees and officers that indemnification will be available because, as a contract, it cannot be modified unilaterally in the future by the Board of Trustees or by our shareholders.

The Maryland General Corporation Law provides that we may indemnify trustees and officers unless

the trustee actually received an improper benefit or profit in money, property or services;

the act or omission of the trustee was material to the matter giving rise to the proceeding and was committed in bad faith or was the result of active and deliberate dishonesty; or

in a criminal proceeding, the trustee had reasonable cause to believe that the act or omission was unlawful.

Our bylaws require, as a condition to advancing expenses, (1) a written affirmation by the trustee or officer of his good faith belief that he has met the standard of conduct necessary for indemnification by us and (2) a written affirmation to repay the amount paid by us if it is determined that the trustee or officer was not entitled to indemnification.

Meetings of Shareholders

Our bylaws provide for an annual meeting of shareholders to elect individuals to the Board of Trustees and transact such other business as may properly be brought before the meeting. Special meetings of shareholders may be called by our President, the Board of Trustees or the Chairman of the Board and shall be called at the request in writing of the holders of 50% or more of our outstanding shares of beneficial interest entitled to vote.

Our bylaws provide that any action required or permitted to be taken at a meeting of shareholders may be taken by unanimous written consent without a meeting. The written consent must, among other items, specify the action to be taken and be signed by each shareholder entitled to vote on the matter.

DESCRIPTION OF THE PARTNERSHIP AGREEMENT

The following summary of the partnership agreement of the Partnership, as currently in effect, including the descriptions of certain provisions described elsewhere in this prospectus, is qualified in its entirety by reference to the partnership agreement. The partnership agreement is on file with the SEC and is incorporated by reference as an exhibit to this Registration Statement. You should read the partnership agreement for a complete description of all its terms.

Management

The Partnership was formed as a Delaware limited partnership in October 1997. We are the sole general partner and the holder of a majority of the units of the Partnership. Under the partnership agreement, we have full, exclusive and complete responsibility and discretion in the management and control of the Partnership, subject to certain limited exceptions. The limited partners of the Partnership generally have no authority to participate in or exercise control or management power over the business and affairs of the Partnership.

Indemnification

The Partnership provides for indemnification of us, as general partner, our officers and trustees and such other persons as we may designate, to the same extent indemnification is provided in our declaration of trust. Our liability and the liability of our officers and trustees to the Partnership are limited to the same extent as under our declaration of trust.

Transferability of Interests

The partnership agreement generally provides that we may not voluntarily withdraw from the Partnership, or transfer or assign our interest in the Partnership. The limited partners, on the other hand, may transfer their units to successor business entities, to immediate family members or pursuant to redemption rights described in the partnership agreement. All other transfer by limited partners may only occur if the Partnership consents and the transfer does not violate federal and state securities laws or REIT qualification rules under the Code. The limited partners may also transfer units to a qualified transferee as described in the partnership agreement. No transferee may become a substituted limited partner without our consent.

Extraordinary Transactions

Except as permitted under the partnership agreement, we may not (1) engage in any merger, consolidation or other combination, (2) sell all or substantially all of our assets, or (3) reclassify, recapitalize or change our outstanding common shares. These transactions are referred to as business combinations.

The partnership agreement permits us to participate in a business combination if the holders of units will receive the same consideration per unit or preferred unit, if any, as shareholders receive per common share or preferred share, and no more than 75% of the equity securities of the acquiring person will be owned by us or related persons. If there is an offer to purchase, tender or exchange common shares, each holder of units will be able to exchange its units for the greatest amount of cash, securities or property that a limited partner would have received

had he redeemed his units for common shares, and then accepted the sale, tender or exchange offer for those shares.

The partnership agreement also permits us to merge into or consolidate with another person if, immediately after the merger or consolidation, substantially all of the assets of the surviving entity are contributed to the Partnership as a capital contribution in exchange for units and the surviving entity agrees to assume the obligations of the general partner.

Offers and Sales of Additional Units

Since its formation, the Partnership has issued and will continue to issue additional units. The Partnership may also issue additional units representing general partnership interests, common limited partnership interests or preferred limited partnership interests of any class or series, with such rights, powers and preferences as the general partner sets.

Capital Contributions and Additional Funds

If the Partnership requires additional funds at any time, then we, to the extent consistent with our REIT status, may borrow such funds from a lender and lend such funds to the Partnership on comparable loan terms. We may also give the Partnership additional funds by making additional capital contributions in return for units. If we sell additional securities, we will contribute the net proceeds to the Partnership by making additional capital contributions. If we contribute additional capital to the Partnership, our limited partnership interest in the Partnership will increase on a proportionate basis based upon the amount of the additional capital contributed. If the additional capital contribution arises from the sale of securities, we will receive units of limited partnership interest with rights comparable to the rights of the securities that were sold by us. If our limited partnership interest increases, the limited partnership interests of the limited partners will decrease proportionately.

Limited Partner Redemption Rights

Under the partnership agreement, each limited partner has the right to require the Partnership to redeem part or all of his units for cash after a specified holding period that is at least one year from the date such units were first acquired by the limited partner. We may elect to assume the obligations of the Partnership and may acquire the units for common shares on a one-for-one basis. The number of common shares that could be issued to these holders of units on redemption will be adjusted in the event of stock splits, stock dividends, issuances of certain rights, certain extraordinary distributions and similar events.

The Partnership can refuse or delay a redemption if it would cause any person to violate any ownership limitation or provision of our declaration of trust or otherwise jeopardize our status as a REIT. See Certain Provisions of Maryland Law and Our Declaration of Trust and Bylaws Restrictions on Ownership and Transfer.

The holders of units have been given registration rights requiring us to register the re-sale of any common shares issued in exchange for units.

Tax Matters

As provided in the partnership agreement, we are the tax matters partner of the Partnership. Accordingly, we make whatever tax elections must be made under the Code. The net income or net loss of the Partnership will generally be allocated to us and the limited partners in accordance with priorities of distribution. See Federal Income Tax Consequences Tax Aspects of Our Investments in the Partnership and Subsidiary Partnerships.

Distributions

Subject to the terms of any preferred units, the Partnership distributes cash on a quarterly basis (or, if we elect, more frequently), to its limited partners in accordance with their respective percentage interests in the Partnership.

Operations

The partnership agreement requires that the Partnership operate in a manner that will enable us to satisfy the requirements for classification as a REIT and to ensure that we will not be classified as a publicly traded partnership under the Code. Under the partnership agreement, except as otherwise provided, the Partnership will also assume and pay when due, or reimburse us for payment of, all costs and expenses relating to the ownership of interests and operation of the Partnership.

Duties and Conflicts

The partnership agreement provides generally that all of our business activities must be conducted through the Partnership.

Term

The term of the Partnership continues until December 31, 2073, or until sooner dissolved upon the occurrence of certain events.

REDEMPTION OF UNITS

Terms of Redemption of Units

On June 30, 2004, the Partnership issued an aggregate of 351,525 units to the owners of certain real estate property as consideration for the contribution of these properties to wholly owned subsidiaries of the Partnership. Information about the properties, dates of contribution, the date the units become exchangeable and the number of units that were sold by the Partnership is set forth below:

Unitholder	Dealerships	Property	Contribution Date	Date First Exchangeable	Number of Units
L.G.S. Autonation, LLC	Toyota of Bedford	Bedford, Ohio	June 30, 2004	July 31, 2005	170,068
Auto Properties, LLC*	Honda of Westminister Heritage Dodge and Nissan	Westminister, Maryland	June 30, 2004	July 31, 2005	181,457

* On July 11, 2005, Auto Properties, LLC distributed its units to its sole member, Auto Properties II, LLC, which, in turn, distributed the units to its members *pro rata* in accordance with such members percentage interest. Consequently, David D. Smith, an individual, holds 90,729 units, and S.

Fader Family,
LLC holds
90,728 units.

Beginning on July 31, 2005, the holders of 351,525 units can cause the Partnership to redeem the units for cash. We have the right to assume the obligations of the Partnership to redeem units and may redeem the units for cash or may issue common shares for units on a one-for-one basis, subject to adjustment. The number of common shares that could be issued to the holders of units on redemption will be adjusted in the event of stock splits, stock dividends, issuances of certain rights, certain extraordinary distributions and similar events.

We will only issue our common shares if (1) the holders decides to redeem their units, (2) we decide to assume the Partnership s redemption obligation, and (3) we decide to offer and sell common shares. We are also now registering the resale of such common shares for the recipient, if and when such shares are offered and sold.

The holders of units must deliver a notice of redemption to the Partnership. The holders will have the right to receive an amount of cash from the Partnership equal to the cash amount, as defined in the partnership agreement. The cash amount will be determined as of the date that the Partnership receives the notice of redemption. If the common shares are then quoted on the Nasdaq National Market or are listed on a national securities exchange, the cash amount will be the average of the daily sale prices of common shares for the 20

consecutive trading days immediately preceding the five trading days prior to the date that the Partnership received the notice of redemption. If we elect to redeem the units for common shares, the holders will have no right to receive cash.

We will deliver duly authorized, validly issued, fully paid and nonassessable common shares, free and clear of any pledge, lien, encumbrance or restriction, other than those provided in the declaration of trust and bylaws or under applicable state and federal securities laws, on redemption of units. The common shares that we deliver will be subject to the terms of the registration rights that relate to those shares.

Certain Conditions to the Exchange

If we decide to assume the Partnership s obligation to redeem units and to offer common shares in exchange for such units, we will issue those common shares to the redeeming holder promptly upon receipt of a notice of redemption unless:

- a redemption would cause the holder or any other person to violate the restrictions on ownership and transfer provisions of our declaration of trust;
- a redemption is for less than 1,000 units, or if the holder holds less than 1,000 units, the redemption is for less than all of the holder s units;
- the holder has delivered more than four notices of redemption during a calendar year; or
- a redemption would cause the Partnership to be a publicly traded partnership under Section 7704 of the Code.

The redeeming holder will have no right to receive any Partnership distribution on any units that have been tendered for redemption if the record date for such distribution is on or after a date that is 30 days after the date of the notice of redemption to the Partnership.

Any attempted exchange in violation of any of the above conditions will have no effect.

We will not issue common shares in exchange for units if the issuance of the common shares would:

- cause any person to own, directly or indirectly, common shares in excess of 9.9% of our outstanding common shares;
- cause our common shares to be owned by fewer than 100 persons, determined without reference to any rules of attribution;
- cause us to be closely held within the meaning of Section 856(h) of the Code;
- cause us to own, actually or constructively, 10% or more of the ownership interests in a tenant of our property, within the meaning of Section 856(d)(2)(B) of the Code;
- otherwise violate our declaration of trust or bylaws; or
- be integrated with any other distribution of our shares of beneficial interest for purposes of complying with the registration provisions of the Securities Act of 1933, as amended.

COMPARISON OF CAPITAL AUTOMOTIVE REIT AND THE PARTNERSHIP

Generally an investment in our common shares is economically equivalent to an investment in the units of the Partnership. Currently, only our common shares and units of the Partnership are outstanding. Holders of our common shares and holders of units receive similar distributions.

However, there are also differences between ownership of units and ownership of our common shares, some of which may be material to investors. The information below highlights a number of the significant differences between us and the Partnership, including form of organization, management control, voting rights, liquidity and federal income tax considerations. These comparisons are intended to assist the holders of units in understanding how their investment will be changed if they receive our common shares on redemption of their units. This discussion is only a summary and does not constitute a complete discussion of these matters. The holders of units should carefully review the balance of our prospectus and the registration statement of which this prospectus is a part for additional important information.

Form of Organization and Assets Owned

The Partnership is organized as a Delaware limited partnership. The Partnership owns interests in properties and its subsidiary partnerships and limited liability companies. The Partnership s purpose is to conduct any business that may be lawfully conducted by a limited partnership organized under the Delaware Revised Uniform Limited Partnership Act. However, business must be conducted in a manner that permits us to qualify as a REIT unless we otherwise cease to qualify as a REIT.

We are a Maryland real estate investment trust. We have elected and intend to be taxed as a REIT under the Code, commencing with the taxable year ended December 31, 1998. We intend to maintain our qualification as a REIT. Our primary asset is our interest in the Partnership, the Partnership subsidiaries and in our direct subsidiaries, which gives us an indirect investment in the properties and subsidiaries of the Partnership. Under our declaration of trust, we may engage in any lawful activity permitted under Maryland law in furtherance of our purpose of performing any and all activities that are lawful for a Maryland real estate investment trust. However, under the partnership agreement, we, as general partner, have agreed that all of our business activities shall be conducted, either directly or indirectly, through or for the benefit of the Partnership.

Additional Equity

The Partnership may issue units (which are substantially equivalent to our common shares), preferred units and other partnership interests (including partnership interests of different series or classes that may be senior to units) in exchange for additional capital contributions, on terms that we determine, as the Partnership s sole general partner. In exchange for capital contributions, the Partnership may issue units, preferred units and other partnership interests to us, may issue units, preferred units and other partnership interests to existing limited partners and others, and may admit third parties as additional limited partners. As long as the Partnership is in existence, the proceeds of all equity capital raised by us will be contributed to the Partnership in exchange for units, preferred units or other partnership units whose terms will be substantially equivalent to the terms of the securities that we sell to raise such capital.

Our Board of Trustees may, in its discretion, authorize the offer and sale of additional common shares or preferred shares (including shares of different series or classes that may be senior to common shares). Our Board or a committee thereof may also set the offering price for our shares. Our Board is also permitted to increase the aggregate number of shares or the number of shares of any class or series without any action by our shareholders.

We may also raise capital by selling debt securities or entering into loan or financing arrangements with third parties. Properties of Partnership subsidiaries have been pledged, and other properties and assets of the Partnership or its subsidiaries may also be pledged as security for such debt. We will contribute any borrowed funds to the Partnership as a loan, except in limited circumstances described in the partnership agreement. As long as the Partnership is in existence, the proceeds of all debt capital raised by us will be contributed to the Partnership in exchange for partnership units whose terms will be substantially equivalent to the terms of the securities that we sell

to raise such capital.

Management Control

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